

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT COURT OF DELAWARE**

ROBERT SCHMIDT and AMY SCHMIDT Plaintiff,	:	:Case Number
	:	: 1:06-CV-207 JJF
	:	
v.	:	
	:	
FRANK HAMILTON and TRESSA THOMPSON-THOMAS	:	
	:	
Defendant.	:	

**ANSWER ON BEHALF OF DEFENDANT**  
**TRESSA THOMPSON THOMAS**

1. Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 1.
2. Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 2.
3. Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 3.
4. Admitted
5. Admitted
6. Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 6.
7. Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 7
8. Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 8
9. Not directed at this defendant

10. Denied
11. Denied
12. Denied
13. Denied
14. Denied

**FIRST AFFIRMATIVE DEFENSE**

Plaintiffs have failed to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred or reduced by the doctrine of comparative negligence.

**THIRD AFFIRMATIVE DEFENSE**

Plaintiff's have failed to mitigate their damages, if any.

**FOURTH AFFIRMATIVE DEFENSE**

Defendant has failed to effectuate service.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs' injuries, if any, are not as severe as alleged.

**CROSS CLAIM AGAINST FRANK HAMILTON**

To the extent that MS THOMAS is found negligent, which is denied, he claims indemnification and contribution from Defendant, Frank Hamilton, based upon the

common law and the joint tortfeasor's act.

**WHEREFORE,** Defendant respectfully requests that the Court dismiss the complaint and award Defendant their costs and reasonable attorneys' fees incurred in responding to the complaint, together with such further relief as the Court may deem just and proper.

SILVERMAN, MCDONALD & FRIEDMAN

/S/ Brian E. Lutness

BRIAN E. LUTNESS, ESQUIRE  
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Plaintiff,	:	1:06-CV-207 JJF
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FRANK HAMILTON	:	
and TRESSA THOMPSON-THOMAS	:	
	:	
Defendant.	:	

**CERTIFICATE OF SERVICE**

I, Brian E. Lutness, Esquire, do hereby certify that I have E-Filed at 1010 N. Bancroft Parkway, Suite 22, Wilmington, Delaware on this 19<sup>th</sup> day of October, 2006 two true and correct copies of Defendant Teressa Thompson Thomas' Answer to Complaint to:

David Cline  
1300 N Market Street  
Wilmington, DE 19801

Steven Casarino  
800 North King Street Suite 200  
Wilmington, DE 19899

/S/ Brian E. Lutness  
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